

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8733 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HAIDARBHAI LALUBHAI SHAIKH

Versus

UNION OF INDIA

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Appearance:

MR SK BUKHARI for Petitioner

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/09/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round, but none put appearance on behalf of the respondents. Heard the learned counsel for the petitioner and perused the special civil application.

2. Challenge has been made by the petitioner to the action of the respondent of confiscation of buckle No.71

of the petitioner, a licensed porter at Baroda Railway Station.

3. The order impugned in this special civil application has been challenged by the counsel for the petitioner inter-alia on the ground that the confiscation of buckle of porter results in civil consequences and even if it is taken to be an administrative order, it could have been made after giving a notice or an opportunity of hearing to the petitioner, which has not been done in the present case.

4. In view of the fact that this writ petition deserves acceptance only on the aforesaid contention raised by the counsel for the petitioner, it is not necessary for this Court to advert to all other contentions raised by him.

5. From the letter of the respondent, Sr. Divisional Commercial Manager, it appears that even the respondent No.3 has not cared to give out the reasons for which the buckle of a licensed porter at Baroda Railway Station has been confiscated. The respondents have not disputed the position that before passing of the impugned order no notice or opportunity of hearing has been given to the petitioner. I find sufficient merits in the contention of the counsel for the petitioner that the impugned order results in civil consequences and affording an opportunity of hearing to the petitioner was must.

6. In the result, this special civil application succeeds and the same is allowed. The respondent No.2 is directed to decide the matter afresh of confiscation of buckle of the petitioner after giving him a notice and an opportunity of hearing. Acceptance of this special civil application will not mean releasing of the buckle of licensed porter i.e. of the petitioner from confiscation. The buckle of licensed porter, the petitioner, will be released from confiscation only in case ultimately the respondent No.2 decides the matter in his favour. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

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